



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Frank D. Connell
Director

Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2100

NOTICE
(Notice ATD 2010-20)

**RE: Proposed Rules to the Department of Revenue, Alcoholic Beverages,
Chapter 560-2-5.**

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Chapter 560-2-5 of the Rules and Regulations of the State of Georgia by proposing:

- 560-2-5-.09, entitled "Registering Additional Brand Labels."
- 560-2-5-.08, entitled "Designation of Sales Territories."

Attached with this notice are exact copies and synopses of the proposed Rules. The proposed Rules are being adopted under the authority of O.C.G.A. §§ 3-2-2 and 3-5-31.


The Department of Revenue shall consider the adoption of the above-referenced proposed Rules at 10:00 a.m., on Monday, March 29, 2010 in Suite 15200 of the Department's headquarters at 1800 Century Blvd. NE, Atlanta, GA 30345-3205.

The Department must receive all comments regarding the above-referenced proposed Rules from interested persons no later than 10:00 a.m. on Monday, March 29, 2010.

Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. NE, Suite 15300, Atlanta, GA 30345-3205. Electronic comments must be sent to regcomments@dor.ga.gov. Facsimile comments must be sent to (404) 417-6651.

Please reference "Notice Number ATD 2010-20" on all comments.

Dated: February 26, 2010


Bart L. Graham
Commissioner
Department of Revenue

SYNOPSIS
RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-5
MANUFACTURERS, SHIPPERS, IMPORTERS & BROKERS

Substantive changes have been made to this Rule.

560-2-5-.08 Designation of Sales Territories - Manufacturers, Shippers, Importers & Brokers.

- This Rule provides the guidelines for the designation of sales territories and any subsequent changes.
- This Rule provides that every broker, manufacturer, and shipper shall name one exclusive distributor in each territory to be the exclusive distributor of that brand of labels.
- This Rule provides for grammatical changes.
- This Rule provides for changes in the Code.
- This Rule was amended in 1987.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-5
MANUFACTURERS, SHIPPERS, IMPORTERS, &
BROKERS**

**560-2-5-.08 Designation of Sales Territories -
Manufacturers, Shippers, Importers & Brokers.**

- (1) Every Manufacturer, Shipper, Importer, or Broker shall:
- (a) Submit with his application for license, one U.S. Alcohol and Tobacco Tax and Trade Beverage approved Brand Label for each Brand of Alcoholic Beverage to be shipped for the first time into, or within, Georgia, not to exceed ten (10) Brand Labels;
 - (b) Designate in the application for registration, sales territories for each of its Brands or Brand Labels sold in Georgia;
 - (c) Name one licensed Wholesaler in each territory who shall be the exclusive distributor of such Brand or Brand Label within that territory.
 - (d) Such designations of Wholesalers or Wholesalers' territories shall be initially approved by the Commissioner and shall not be changed nor initially disapproved except for cause, and the Commissioner shall determine cause after a hearing pursuant to these Regulations.
- (2) Every Manufacturer, Shipper, Importer, or Broker desiring to register additional Brands or Brand Labels subsequent to the initial registration of Brands or Brand Labels must:
- (a) Submit such request to the Commissioner thirty (30) days in advance; and as to Distilled Spirits,

1. The applicant shall pay a registration fee in the sum of one hundred dollars (\$100.00) for no more than ten (10) Brand Labels of Distilled Spirits.

2. If a producer presents Brand Labels for registration after the initial registration, the registration fee for each additional Brand Label of Distilled Spirits shall be ten dollars (\$10.00) per Brand Label.

3. A fee of ten dollars (\$10.00) for all Brand Labels registered by the producer must be paid annually every year following the year of initial application.

4. No producer shall present for registration at any one time more than ten (10) brands of Distilled Spirits.

5. Any proposed change or transfer that will place more than 25% of the case volume of all Distilled Spirits sold in Georgia under one Wholesaler or controlled group is presumed to be an attempt to create a monopoly and lessen competition.

(3) No applicant will be approved which will tend to create a monopoly or lessen competition with respect to any type of Alcoholic Beverages or with respect to case volume generally.

Authority: O.C.G.A. §§ 3-2-2, 3-5-31.

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-5 MANUFACTURERS, SHIPPERS, IMPORTERS & BROKERS

Substantive Changes have been made to this Rule.

560-2-5-.09 Registering Additional Brand Labels - Manufacturers, Shippers, Importers & Brokers.

- This Rule provides the guidelines for registering additional brand labels after the initial application.
- This Rule provides for grammatical changes.
- This Rule provides for changes in the Code.
- This Rule was last amended in 1987.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-5
MANUFACTURERS, SHIPPERS, IMPORTERS, &
BROKERS**

**560-2-5-.09 Registering Additional Brand Labels -
Manufacturers, Shippers, Importers & Brokers.**

(1) Every Manufacturer, Shipper, Importer, or Broker desiring to register additional Brands or Brand Labels subsequent to the initial registration of Brands or Brand Labels must:

(a) Submit such request to the Commissioner thirty (30) days in advance; and as to Distilled Spirits,

1. The applicant shall pay a registration fee in the sum of one hundred dollars (\$100.00) for no more than ten (10) Brand Labels of Distilled Spirits.

2. No producer shall present for registration at any one time more than ten (10) brands of Distilled Spirits.

3. If a producer presents more than ten (10) Brand Labels for registration after the initial registration, the registration fee for each additional Brand Label of Distilled Spirits shall be ten dollars (\$10.00) per Brand Label.

4. A fee of ten dollars (\$10.00) for all Brand Labels registered by the producer must be paid annually every year following the year of initial application.

5. Any proposed change or transfer that will place more than 25% of the case volume of all Distilled Spirits sold in Georgia under one Wholesaler or controlled group is presumed to be an attempt to create a monopoly and lessen competition.

(2) No proposed change will be approved which will tend to create a monopoly or lessen competition with respect to any type of Alcoholic Beverages or with respect to case volume generally.

(3) Should such Brands or Brand Labels have been previously designated to a different Wholesaler, the Manufacturer, Shipper, Importer, or Broker must:

(a) Furnish a copy of the request for the additional designations to the Wholesaler or Wholesaler's previously designated Wholesaler by such Manufacturer, Shipper, or Broker is such subsequent designations of such subsequent Brands or Brand Labels is to a Wholesaler different from the Wholesalers designated for other Brands or Brand Labels of such Manufacturer, Shipper, or Broker.

1. The initially designated Wholesaler shall have thirty (30) days from receipt of the additional designations from the Manufacturer, Shipper, or Broker in which to object to the Commissioner to such additional Wholesaler designees, and if no such objection is filed with the Commissioner within such thirty (30) days, the right to such objection shall be waived.

i. Objections shall state the specific reasons which form the basis of the objection.

ii. Any Brands or Brand Labels previously registered in Georgia and which have subsequently been withdrawn from distribution for a period less than four (4) years shall be treated in the same manner as additional Brands or Brand Labels and subject to the provisions in this Section.

iii. Any Brands or Brand Labels previously registered in Georgia and which have subsequently been withdrawn from distribution for a period in excess of four (4) years shall be considered as an initial application to register the Brand or Label as provided by this Title and Section (1) of this Regulation.

iv. Any previous Wholesaler filing an objection after the Brand has been withdrawn for the period in excess of four (4) years and an initial application has been filed pursuant to

Rule 560-2-5-.08, shall only have the right to a hearing if sufficient documentation is provided to the Department and a determination is made by the Department that a hearing is warranted.

(v) Sufficient documentation should include information showing that the last date upon which the Manufacturer shipped Alcoholic Beverages to the Wholesaler was within the previous four (4) years.

(vi) Maintaining an inventory of the withdrawn Brand and subsequent sales of that Brand to Retailers and/or Retail Consumption Dealers shall NOT constitute sufficient documentation that a hearing is warranted.

(vii) A Brand is considered withdrawn as of the date of the letter of withdrawal pursuant to Section (12) of this Regulation, from the date of expiration of the Manufacturer's, Shipper's, Importer's, or Broker's license, or date of relinquishment of the license by the Manufacturer, Shipper, Importer, or Broker.

(4) If an objection is filed pursuant to paragraph (1) above within the thirty (30) day period, or upon his own motion, the Commissioner shall set a hearing on such matter and give notice to the initially designated Wholesaler, the proposed designated Wholesaler for additional Brands or Brand Labels, and the Manufacturer, Shipper, or Broker.

(a) If it is determined from the evidence adduced at the hearing that the Brand or Brand Label involved is the same as, or similar to, or is such a modification of, substitution of, upgrade of or extension of a Brand or Brand Label which has already been registered by the Manufacturer, Shipper, or Broker so as to render it unjust or inequitable (without cause being shown) to designate the Brand or Label being so modified, substituted, upgraded or extended; then such request shall be denied;

1. Provided however, that nothing in this Regulation shall be construed to prevent the Manufacturer, Shipper, or Broker from treating the matter as a desire to change

Wholesalers, and from proceeding under Regulation 560-2-5-.11, either before or after such determination.

(c) Any inventory of the released Brand may no longer be distributed by the Wholesaler as of the date of the letter of release as specified in Rule 560-2-5-.10(7).

Authority: O.C.G.A. §§ 3-2-2, 3-5-31.

PROPOSED